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SERVICE DATE – APRIL 25, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 55 (Sub-No. 694X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN MCMINN COUNTY, TENN.

Decided: April 25, 2014

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 6.4-mile rail line, known as the Athens Branch, on its Southern Region, Huntington-West Division, KD Subdivision, extending between milepost OKW 327.0, at Englewood, and milepost OKW 333.4, at Athens, in McMinn County, Tenn. Notice of the exemption was served and published in the Federal Register on May 21, 2009 (74 Fed. Reg. 23,926).

By decision and notice of interim trail use or abandonment (NITU) served on August 13, 2009 (August 2009 decision), the proceeding was reopened and a 180-day period was authorized for McMinn County (the County), the City of Athens, and the City of Englewood to negotiate with CSXT for an interim trail use/rail banking agreement for the 6.4-mile line under § 8(d) of the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29.¹ By a series of decisions, with the latest decision served on August 19, 2013, the NITU negotiating period was extended until February 18, 2014.

In a letter filed on March 12, 2014, the County notified the Board that it had completed the purchase of a portion of the line extending from milepost OKW 333.4 to milepost OKW 328.47. In the letter, the County also requests a further extension of the NITU negotiation period for 180 days, until August 17, 2014, for the remaining portion of the line extending from milepost OKW 328.47 to milepost OKW 327.0. The County states that the extension is needed because they are in the process of pursuing additional Federal funding to complete the purchase of the remaining portion of the line, and also to continue negotiations. In a letter filed on March 20, 2014, CSXT states that it agrees to the extension request.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period for a portion of the line and is willing to continue trail use negotiations for that portion of the line, the Board retains jurisdiction, and the NITU negotiating

¹ The August 2009 decision also imposed two salvage-related conditions that remain in effect.

period may be extended.² Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Vill. v. Mo. Pac. R.R., 95 F.3d 654, 659 (8th Cir. 1996). An extension of the NITU negotiation period will promote the establishment of trail use and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period for the portion of the line from milepost OKW 328.47 to milepost OKW 327.0 will be extended for an additional 180 days from February 18, 2014, until August 17, 2014. If an interim trail use agreement is reached (and thus interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h); Nat'l Trails Sys. & R.R. Rights-of-Way, EP 702 (STB served Apr. 30, 2012).

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The County's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The NITU negotiating period is extended from February 18, 2014 to August 17, 2014, for the portion of the line from milepost OKW 328.47 to milepost OKW 327.0.
3. If an interim trail use/rail banking agreement is reached, the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) and (h).
4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

² See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).